

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The Office Action dated November 25, 2005, indicated that the amendments to the Specification will not be entered; that claims 1, 33, 34, 52-55 and 57-59 stand rejected under 35 U.S.C. §112(1); claims 1 – 14, 20 – 30, 32 – 39, 43-45 and 48 – 60 stand rejected under 35 U.S.C. §102(e) over Yates *et al.* (U.S. Patent No. 6,167,438); claims 15-16 and 40-42 stand rejected under 35 U.S.C. § 103(a) over Yates in view of Miller *et al.* (U.S. Patent No. 5,920,701); claims 17, 46 and 47 stand rejected under 35 U.S.C. §103(a) over Yates in view of Wolpert (U.S. Patent No. 6,577,601); claims 18 and 19 stand rejected under 35 U.S.C. § 103(a) over Yates in view of Wolpert, and further in view of Miller; and claim 31 stands rejected under 35 U.S.C. §103(a) over Yates in view of Reed *et al.* (U.S. Patent No. 5,862,325).

Applicant appreciates the Examiner's participation in recent teleconferences, during which various aspects of the Application were discussed, but with no agreement being reached. As discussed, the portions of the Yates reference cited in the Office Action are limited to routing applications involving a server node that works by responding to requests that specify a data source, and requires that a server lie in a communication path between a requesting source and a data source specified in this request. For example, column 7, lines 9-17 discuss these limitations, in that the diffusion of load is "constrained to nodes in the tree structure." In this regard, these cited portions of the Yates reference has limited relevance to the claimed limitations.

While previously-presented claim 60 is patentable over the cited reference as discussed above, claim 60 has been amended in an effort to facilitate prosecution by removing any ambiguities regarding the intent of the claimed limitations, particularly in consideration of the lengthy time under which the invention has been in prosecution and the continued rejections of the claims.

After discussing the Yates reference, Applicant further reviewed portions of the background of the Yates reference, which discusses disadvantages of different prior applications. Yates later goes on to distinguish and teach away from these prior applications in describing its invention. As such, there is no motivation for combining Yates' teachings with

the prior applications that it distinguishes in its background. For example, Yates introduces different background cache-based applications in an effort to explain the purpose of its described invention by distinguishing inefficiencies and other aspects of these applications. Referring to column 2, lines 44-55 of the background, Yates discusses an application involving a server node that issues “probe messages to search for a cache copy” at nodes in a network. Yates then goes on to discuss disadvantages of such applications at line 58 of column 2, indicating that “such caching techniques do not necessarily or even typically achieve optimum distribution of document request loading.” Yates continues at lines 1-20 of column 3 to discuss disadvantages of such a searching approach. In later describing its purpose, Yates limits the applicability of its server approach to a tree structure for a variety of purposes, including those discussed above and relative to avoiding the disadvantages of the prior applications discussed in its background (*see, e.g.*, column 7, lines 9-17). In this regard, Yates teaches away from the applications it discusses in its background. Therefore, there is no motivation to combine the portions of the Yates reference cited in the Office Action, with the (distinguished) background applications.

In view of the above, Applicant respectfully traverses all of the claim rejections that rely on Yates as the primary reference, because Yates’ router is limited to processing requests that both identify a specific data source and that must further pass through a particular tree structure. In this regard, Yates teaches away from the main subject matter of the claims including, for example, claim 60.

Applicant further traverses the Section 112(1) rejections, because the specification shows a communication arrangement with a network-distributed routing controller implemented in a network router and in other (user) nodes on the network, as exemplified in Figures 5 and 6, as claimed in the originally-filed application and as would be understood by those of skill in the art. Applicant further incorporates its traversals made in prior Office Action Responses of record, particularly regarding the Section 112(1) rejections.

Notwithstanding the above, Applicant has canceled claims 1-59, without prejudice and reserving the opportunity to pursue these claims (*i.e.*, in the context of a continuation application as discussed with the Examiner). This cancellation has been made in view of the lengthy prosecution of this application and in response to the continued (improper) rejections of the claims.

Applicant submits that amended claim 60 and the new claims dependent therefrom are allowable for the reasons stated above and as discussed with the Examiner.

In view of the above discussion, Applicant believes that the rejections have been overcome and the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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